

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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| SHIMON ROSENBERG, et al., KIA SCHERR, | : | |
| et al., EMUNAH CHROMAN, et al., LINDA | : | |
| RAGSDALE, et al., AUTUMN GILLES, et al., | : | |
| | : | REPORT AND |
| Plaintiffs, | : | <u>RECOMMENDATION</u> |
| | : | 10-CV-5381 (DLI) (CLP) |
| -against- | : | 10-CV-5382 (DLI) (CLP) |
| | : | 10-CV-5448 (DLI) (CLP) |
| LASHKAR-E-TAIBA et al., | : | 11-CV-3893 (DLI) (CLP) |
| | : | 12-CV-5816 (DLI) (CLP) |
| Defendants. | : | |
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| ----- X | | |

POLLAK, United States Magistrate Judge:

Plaintiffs in the above-captioned cases (collectively, “plaintiffs”) are American and Israeli citizens who were injured or whose relatives were killed during the 2008 terrorist attacks in Mumbai, India. (Am. Compl.¹ ¶¶ 1-4). Plaintiffs assert damages arising under the Alien Tort Statute (“ATS”), 28 U.S.C. § 1350, and the Antiterrorism Act (“ATA”), 18 U.S.C. § 2333, against the terrorist organization Lashkar-e-Taiba (“LeT”), and several of its known leaders including (collectively, “defendants”). (Am. Compl. ¶¶ 10-16).² On November 4, 2013, the Clerk of Court entered a default against defendants and on November 12, 2013, plaintiffs moved for a default judgment. On February 14, 2014, plaintiffs moved for damages. On September 10,

¹Citations to “Am. Compl.” refer to plaintiffs’ Amended Complaint, filed on October 30, 2014. This case consolidates 10 CV 5381, 10 CV 5382, 10 CV 5448, 11 CV 3893, and 12 CV 5816.

²The Honorable Dora L. Irizarry dismissed claims against several additional defendants – the Inter-Services Intelligence Directorate of the Islamic Republic of Pakistan (the “ISI”), two former ISI Director Generals, Ahmed Shuja Pasha and Nadeem Taj, and Major Iqbal and Major Samir Ali, also both associated with ISI.

2014, Judge Irizarry adopted this Court's Report and Recommendation that the motions for default judgment and damages be denied without prejudice to re-file. Plaintiffs were ordered to amend their Complaints to address certain deficiencies and to properly serve all of the defendants.

On October 30, 2014, plaintiffs filed Amended Complaints in each action and simultaneously filed motions for default judgment and damages. On December 17, 2014, plaintiffs filed an affidavit of service, indicating that packages containing the Amended Complaints were sent to 5 of the defendants and signed for upon delivery on November 29, 2014. The affidavit further stated that 2 additional packages were still in transit.

Since service was just recently effected on only some of the defendants and some still remain to be served, the time for defendants to file answers or respond to the Amended Complaints has not yet expired. Given that the motions for default judgment and damages were filed over a month before the defendants had even been served, it is respectfully recommended that plaintiffs' motions for default judgment and damages be denied without prejudice to renew after the remaining defendants have been properly served and after their time to answer has expired.


Any objections to this Report and Recommendation must be filed with the Clerk of the Court, with a copy to the undersigned, within fourteen (14) days of receipt of this Report. Failure to file objections within the specified time waives the right to appeal the District Court's order. See 28 U.S.C. Section 636(b)(1); Fed. R. Civ. P. 6(a), 6(d), 72; Small v. Secretary of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

The Clerk is directed to send copies of this Report and Recommendation to the parties

either electronically through the Electronic Case Filing (ECF) system or by mail.

SO ORDERED.

Dated: Brooklyn, New York
December 18, 2014



Cheryl L. Pollak
United States Magistrate Judge
Eastern District of New York